

Best Available Copy

Serial No. 09/578,503

HP 30990018-3 US

LHB 1509-114

Page 17

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-32 are pending, of which claims 1, 4, 8, 11, 14, 16, 20-22, and 27 are independent, and claims 2, 4, 6, 8, 10, 11, 13-16, 20, 21, 22, 24, 25, 27, and 29-32 are amended for clarity.

Applicants acknowledge that claims 8, 20, 21, and 27 are allowed and that claims 6, 7, 9, 10, 13, 19, 19, 24-26, and 28 are allowable.

Applicants traverse the rejection of claims 11, 12, 22, and 23 under 35 U.S.C. §102(e) as being anticipated by Birnbaum (U.S. 5,797,128). Independent claims 11 and 22, upon which claims 12 and 13 depend, require receiving a policy for the configuration of the computer system in terms of a policy context referring to unbound entities and a policy statement; storing, for each of the unbound entities, a pointer to data in the computer system representing at least one instance of that entity; binding, with reference to the pointers, the unbound entities in the policy context to instances of those entities; and interpreting, with reference to the interpretation rules, the policy statement into a series of instructions to the computer system referring to the bound instances or derivatives of them.

Applicants are unable to find any reference to the unbound, binding, and bound instances or derivatives thereof or pointer to

Serial No. 09/578,503
HP 30990018-3 US
LHB 1509-114
Page 18

data representing an unbound entity in the portions of Birnbaum relied on in the Office Action (i.e., column 3, lines 13-22; column 5, lines 40-59; and column 4, lines 27-60, and FIG. 1C). The Examiner is courteously requested to identify where the relied-on portion of the reference discusses (1) what is the unbound entity, (2) the binding operation, (3) a bound instance or derivative thereof, and (4) the pointer representing the unbound entity. The Examiner is also requested to indicate how FIGS. 1C and 2 of Birnbaum disclose the requirements of claims 12 and 23 (although the latter is not specifically mentioned on page 4 of the Office Action) of determining a group of the bound instances and referring to such a determined group in at least one of the instructions.

If relying on inherency, it is noted the Examiner has the burden of proving inherency, either by appropriate rationale or evidence. The fact that a certain result or characteristic *may* occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981). To establish inherency, extrinsic evidence must make clear that the missing descriptive matter is **necessarily** present in the thing described in the reference and that it would be so recognized by persons of ordinary skill in the art. Inherency may not be established by possibilities or probabilities. The mere fact that a

Serial No. 09/578,503
HP 30990018-3 US
LHB 1509-114
Page 19

certain thing may result from a given set of circumstances is not sufficient. *In re Roberston*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). In relying upon a theory of inherency, the Examiner must provide a basis in fact or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (B.P.A.I. 1990).

Applicants traverse the rejection of claims 1-5, 14-17, and 29-32 under 35 U.S.C. §103(a) as being unpatentable over Raab et al. (U.S. 5,751,967) in view of Birnbaum.

Raab is concerned with automatically configuring a network device to support a virtual network. The Raab high-level policy refinement is described as a table of attribute mappings to values. Birnbaum is related to implementing a hierarchal policy for computer system administration. The relied-on portion of Birnbaum for this rejection (column 4, lines 47-60) is directed to a senior system administrator with a system management function 26 that accesses a client computer 414 via an interface so initial policies for server 20 can be retained in database 24, which is associated with the server. System management function 26 allows the senior administrator to change the hierarchies among policies 22 of server 20 and to add, delete, or modify policies 22 of server 20 within a particular hierarchy.

Serial No. 09/578,503
HP 30990018-3 US
LHB 1509-114
Page 20

Applicants cannot agree that it would have been obvious to one of ordinary skill in the art to have modified Raab as a result of Birnbaum. Raab's high-level policy refinement, which involves a table of attribute mappings, is altogether different from Birnbaum's addition of policies of a server within a particular hierarchy. In addition, one of ordinary skill in the art related to automatically configuring a network device to support a virtual network, per Raab, would not have gone for help in solving a problem to a reference dealing with implementing computer system administration policy.

Applicants also cannot agree with the conclusion in the Office Action that it would have been obvious to modify Raab to fully meet various types of configurations or threats so the Raab system can be fully protected from attack or unwanted modification. There appears to be nothing in the references to support this rationale. The rationale appears to emanate from hindsight by the Examiner as gleaned from Applicants' disclosure. The Examiner is requested to indicate what in the references supports his rationale.

The Office Action does not discuss the requirements of claims 4 and 16, regarding presenting refinement information, in accordance with the high-level policy definition, to a user via a user interface so that a refined policy definition deployable on the computer system can be produced, the refinement including adding details to the high-level policy definition. Nor are the requirements of claims 29-32, respectively dependent on claims 1, 4,

Serial No. 09/578,503
HP 30990018-3 US
LHB 1509-114
Page 21

14, and 16, addressed in the Office Action. Therefore, a *prima facie* case of obviousness is not established in the Office Action with respect to claims 4, 16, and 29-32, and they must be deemed allowable based on the current record.

In view of the foregoing, favorable reconsideration and allowance are in order.

Applicants hereby request a one-month extension of time in which to respond to the Office Action of January 26, 2005. Please charge the \$120 fee for a one-month extension of time to Deposit Account No. 08-2025. The Commissioner is hereby authorized to charge any required fees not otherwise paid, including application processing, extension, and extra claims fees, to Deposit Account No. 08-2025.

Respectfully submitted,

Chen GOH et al.

By:


Allan M. Lowe, #19,641

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400
703-684-1111 telephone
970-898-0640 telecopier
AML:rk

CERTIFICATION OF FACSIMILE TRANSMISSION
I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMILE
TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE
ON THE DATE SHOWN BELOW

Roseanne Kaplan
TYPE OR PRINT NAME OF PERSON SIGNING CERTIFICATION

ML 5-26-05

SIGNATURE

DATE

703 872-9306

FACSIMILE NUMBER

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER: _____**

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.